

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JAMES C. KISTNER,

Plaintiff,

vs.

Civil No.: 18-CV-00402-LJV-JJM

THE CITY OF BUFFALO, *et al.*,

Defendants.

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**NOTICE OF MOTION**

**NATURE OF ACTION:** Violation of Civil Rights.

**MOVING PARTY:** Plaintiff, James C. Kistner.

**DATE AND TIME:** To be determined by the Court.

**PLACE:**  
Hon. Lawrence J. Vilardo  
Robert H. Jackson United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202

**SUPPORTING PAPERS:** Memorandum of Law, dated November 30, 2022.

**ANSWERING PAPERS:** Opposing papers, if any, are required to be filed and served in accordance with the Court's order, or, in the absence of a Court order, within 14 days after service of this motion, in accordance with Local Rule 7(b)(2)(B).

**REPLY PAPERS:** Plaintiff intends to submit reply papers.

**RELIEF REQUESTED:** An Order certifying the City Defendants' appeal as frivolous, or, in the alternative, an Order bifurcating Plaintiff's *Monell* claim against the City of Buffalo for purposes of trial, along with the grant of such other and further relief that the Court deems just and proper.

**GROUND FOR RELIEF:** Federal Rules of Civil Procedure 42(b), 28 U.S.C. § 1291, and case law interpreting the same.

**ORAL ARGUMENT:** Requested.

Dated: November 30, 2022  
Buffalo, New York

**RUPP BAASE PFALZGRAF CUNNINGHAM LLC**  
*Attorneys for Plaintiff*

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